

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
Civil Action No. 3:16-cv-817

KRAFT FOODS GLOBAL, INC., AS) PLAN SPONSOR, ADMINISTRATOR) AND FIDUCIARY OF THE KRAFT) FOODS GLOBAL, INC. GROUP) BENEFITS PLAN)) Plaintiff,)) v.)) ROBERTA MCCULLUM, MICHAEL) A. DEMAYO and THE LAW OFFICES) OF MICHAEL A. DEMAYO L.L.P.,)) Defendants.)	ORDER
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THIS MATTER is before the Court on Plaintiff's Motion for a Preliminary Injunction (Doc. No. 2). The Court previously granted Plaintiff's Motion for a Temporary Restraining Order ("TRO") (see Doc. No. 7), and set a hearing on the motion for preliminary injunction for December 7, 2016, at 2:00 p.m. Defendant Roberta McCullum did not appear at the hearing, and Plaintiff's counsel indicated that he has had difficulty serving her with the Complaint and other pleadings in this matter.

A representative for Defendants Michael A. DeMayo and The Law Offices of Michael A. DeMayo, LLP, appeared at the hearing and expressly consented to the extension of the temporary restraining order indefinitely until these two defendants could obtain legal counsel to represent them in this matter. During the hearing, the representative indicated that The Law Offices of Michael A. DeMayo had at least \$30,196.37 held in trust for purposes of Plaintiff's claims in this matter. The representative indicated that the remainder of the \$100,000 settlement proceeds had been disbursed to Defendant McCullum and to firm of The Law Offices of Michael A. DeMayo,

LLP, as payment for the legal fees incurred in the underlying litigation. While the Court noted in open court that the TRO would certainly extend to the \$30,196.37 held in trust, the Court did not address to what extent the remainder of any proceeds received by Defendants Michael A. DeMayo and The Law Offices of Michael A. DeMayo should be enjoined. In light of their representative's express consent to the extension of the terms stated in the Court's prior TRO, the Court hereby continues that portion of the injunction barring ALL Defendants from spending, converting, transferring or disbursing the proceeds of any settlement arising out of the December 19, 2014, motor vehicle accident. This shall include any other funds beyond those held in trust for this litigation that is currently in the possession of Defendants Michael A. DeMayo and The Law Offices of Michael A. DeMayo. Similarly, Defendant McCullum also continues to be enjoined as provided in the TRO.

IT IS FURTHER ORDERED that this injunction shall continue until McCullum can be located and served, and until Defendants Michael A. DeMayo and The Law Offices of Michael A. DeMayo obtain legal counsel. All Defendants will then be given an opportunity to be heard at a preliminary injunction hearing, which shall be promptly set as soon as the Court is informed as to McCollum's service and the other Defendants' retention of legal counsel.

Plaintiff and its counsel are responsible for personal service of this Order on all Defendants, using the process permitted by the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Signed: December 6, 2016



Frank D. Whitney
Chief United States District Judge

